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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 002930

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SUBJECT: PROVINCIAL COUNCIL ELECTIONS: ELECTIONS IN 2008
WILL BE A CHALLENGE

Classified By: Political Minister Counselor Robert Ford for reasons 1.4
(b) and (d).

¶1. (C) Summary: Senior Iraqi election commission (IHEC) officials told us September 9 that they require 135 days of lead time between passage of an election law and the holding of elections to organize credible provincial elections. They indicated that January 2009 was the earliest date an election could be held. They expressed concern that pressure -- from within Iraq or outside -- to compress the timeline would undermine the credibility of the elections. Meanwhile, a well-placed international expert working with the election commission told us that the commission so far has adequate resources and the institutional capacity to hold an election in late January. He and a UNAMI official both think IHEC could conduct an election this year, but compressing the timeline to do that would strain IHEC's capabilities. As a result, holding elections this year would likely necessitate more direct international assistance to the commission, especially in facilitating operational procurements. It would necessarily reduce the international donors' focus on building IHEC's organization capacity. An international expert working with the election commission asserted to us on September 8 that reducing the time for election candidate registration and the duration of the challenge period in order to hold elections this year also could hurt the election's credibility. End Summary.

IHEC: We Need Four Months

¶2. (C) Polmincouns met with senior officials of the Independent High Electoral Commission (IHEC) Kasim Al-Abodi and Dr. Usama A. Alani on September 9 to discuss IHEC's planning and timelines for the upcoming provincial elections. Both officials stressed that technical preparations up to now, including voter registration and data entry, had gone smoothly despite the absence of an election law. Judge Kassim and Al-Alani both expressed concern that Iraq's leadership and political parties will make the IHEC the scapegoat if elections are in any way flawed, whether in conduct or timing. The officials said the commission was doing its utmost to prepare the ground work for elections whenever they might be held to avoid providing any grist to such charges. Some activities, such as the voter registration, exposed the IHEC to some risk since they had expended government funds without actually having an election officially in the offing.

¶3. (C) The officials observed that ensuring the credibility of the election was essential and could only be assured with a minimum lead time of 135 days between passage of an election law and the holding of the election. They asserted that late January 2009 was the earliest a credible election could be held, assuming expeditious passage of an election law following the opening of parliament on September 9.

¶4. (C) Judge Kassim listed some of the tasks that must be done to hold provincial elections but which cannot be done

before the passage of an election law. For example, they cannot register candidates or political coalitions until the new law defines the criteria for them. They cannot register internally displaced persons to vote until the law defines precisely what documentation would be required for registration. They cannot print ballots until they know if there is an open or closed list system. An open-list system would require candidate names and a very different ballot layout for the printers. He pointed to limitations of the 2005 law, which was drafted for national, not provincial, elections. For example, there are provisions in the new provincial powers law that conflict with elements of the 2005 law, such as the number of seats in provincial councils.

IHEC Abilities and Tradeoffs

¶ 15. (C) An international elections expert who works closely with IHEC suggested to us September 8 that the commission's critical path to elections could be reduced to 105 days. This shorter time span would require that IHEC take Ramadan 'eid and other holidays. He concurred that with this lead time, generally speaking, IHEC could prepare conduct the provincial council elections, but he raised concern about the credibility of the resulting election. He highlighted that international advisors would have to take a greater role in the preparations, while the registration and challenge periods would have to be shortened.

¶ 16. The expert opined - in an entirely personal capacity - that October 1 is the absolute latest date for a new

BAGHDAD 00002930 002 OF 003

elections law if there are to be elections by the end of the year. Passage of a law beyond this would compress candidate registration and political bloc registration beyond the point of credibility. (Separately, on September 6 Peter Bartu, UNAMI's senior political advisor, told us that his team believes that elections could be organized within 90 days of the passage of an elections law.) Holding elections with only three months' advance notice would require much more international direct involvement, he cautioned.

¶ 17. (C) The expert warned that compressing the timeline to enable elections before the end of the year will severely challenge IHEC's institutional capacities, exacerbating the existing inefficiencies that long-term international assistance is trying to address. For example, IHEC needs help with contracting, both in drafting and executing tenders and other paperwork. He recounted that IHEC officials, even with the 135-day timeline, have asked the UN to complete both the paperwork and provide funds for polling kits, ballots, and other elections-related goods and services. The UN has told IHEC that it does not plan to provide this kind of assistance.

Election Commission Finances Good

¶ 18. (C) IHEC's financial relationship with the Ministry of Finance is normalized. IHEC has a 42 billion dinar institutional budget for 2008, and a budget request of 56 billion dinars for 2009. In addition, there are separate operational budgets granted for each election event. 225 million dollars has been allocated for the 2008 provincial elections. According to the expert, these funds should be sufficient. Liquidity so far is good: the first tranche (USD 100 million) of the parliamentary elections budget has been released and USD 20 million spent. (Thus, he noted, it makes no sense for international organizations to provide funds to IHEC for procurement.) The second tranche is contingent on passage of an election law, and will require a report to the Finance Ministry on disbursements of the first tranche. (Note: The expert said IHEC is "starving" its

offices in the KRG -- where there will be no provincial elections -- to use the monies elsewhere. He worried about the possibility that the KRG might seek to fund this office, which could give it undue influence. End note.) IHEC has begun election procurements where possible in advance of the elections, with IFES and UNAMI encouragement.

But the Paperwork Is Excessive

¶9. (C) Excessive centralization impedes IHEC's ability to efficiently procure supplies and equipment, particularly with non-Iraqi vendors. The expert cited as an example that Governorate Elections Office (GEO) managers' discretionary spending authorization is limited to 100,000 dinars (USD 90).

GEO expenditures up to approximately USD 2,500 can be approved by a GEO committee. Anything more requires IHEC Baghdad approval. The expert noted that the recent establishment of e-mail capability will facilitate GEO-IHEC communication, but agreed that given such tight limitations on discretionary spending, IHEC will likely be inundated with constant procurement approval requests. Ramadan has hindered the operational effectiveness of existing local budget committees.

Staffing Challenges Too

¶10. (C) Staffing is another challenge. The expert noted that 20 percent of officers with experience from the 2005 parliamentary elections had left. This is a particular challenge given IHEC's need to ramp up GEO and other local staffing for the provincial elections. The expert also said that IHEC is more politicized than its predecessor in 2004-05, the Independent Electoral Commission of Iraq (IECI), because the law that established IHEC stipulates a process whereby commissioners and GEO managers are nominated by the Council of Representatives.

Dispute Settlement Mechanism Not Ready

¶11. (C) IHEC will also have to move quickly after the passage of an elections law to develop implementing regulations and logistical arrangements. This will be challenging even with adequate lead time. The expert identified development of a sound dispute resolution

BAGHDAD 00002930 003 OF 003

mechanism as critical. Working closely with IFES and UNAMI, IHEC has begun work on this, but requires an election law to finish. The expert said that even once this framework is developed, the modalities for investigating and processing disputes with the security services will need to be established, and local police forces trained in their duties and responsibilities with respect to enforcing provisions of the election law.

¶12. (C) The expert predicted that IHEC would require substantial procurement and logistical assistance to pull off provincial elections by the end of 2008. He said the programmatic shift from longer-term institutional development of IHEC to conducting elections in December could compromise international efforts to build IHEC capacity. He also warned that an abbreviated critical path would mean that IHEC would not be able to work on anything else but the provincial elections. Ongoing work on establishing district and sub-district council units, preparing for potential constitutional referenda, elections in the KRG, and parliamentary elections would fall by the wayside. He also expressed concern that truncating candidate registration and challenge periods could jeopardize the election's credibility.

Comment

¶13. (C) Our policy has been to focus on building IHEC's long-term capacity. Although the combination of USAID and UNAMI assistance to the IHEC has been substantial, we have minimized direct involvement in IHEC management operations to compel it to develop its own organizational capacity. The warning the international expert left us is that if we want elections by year's end, we will need to be much more directly involved in IHEC's procurement, managerial, and organizational operations. USAID would also have to reprogram funds, sacrificing on-going long-term capacity building activities. Of course, UNAMI has the lead in coordinating assistance to the IHEC and we will stay in close contact with its team as we assess IHEC's abilities to conduct provincial elections on relatively short notice.

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